

SITE DEVELOPMENT PERMIT

FILE NO.	H21-024
LOCATION OF PROPERTY	2925 Ross Avenue
ZONING DISTRICT	R-2 Two-Family Residence
GENERAL PLAN DESIGNATION	Residential Neighborhood
PROPOSED USE	Site Development Permit to allow a 351-square foot rear expansion of an existing 2,106-square foot duplex on a 0.16-gross acre site located in the R-2 Two-Family Residence zoning district.
ENVIRONMENTAL STATUS	Exempt per CEQA Guidelines Section 15301 for Existing Facilities
APPLICANT/ADDRESS	Ali Zaghi 21060 Homestead Road Cupertino, CA 95014
OWNERS/ADDRESSES	Majid Saravi 2925 Ross Avenue San Jose, CA 95124

FACTS AND FINDINGS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts and findings regarding this proposed project:

1. **Site Description and Surrounding Uses.** The subject approximately 0.16-gross acre site is currently developed with a one-story duplex. The site is located on the west side of Ross Avenue, approximately 47 feet south of Alta Mira Place. The site is surrounded by one-story duplexes to the north, east across Ross Avenue, and the south, and single-family residences to the west. The existing duplex includes two two-bedroom units.
2. **Project Description.** This project is a Site Development Permit to allow a one-story, 351-square foot rear expansion of an existing 2,106-square foot, one-story duplex on a 0.16-gross acre site located in the R-2 Two-Family Residence zoning district. The project would add a master bedroom to one of the units and include minor interior alteration in the other unit.
3. **General Plan Conformance.** The subject site is designated Residential Neighborhood on the Envision San José 2040 General Plan Land Use/Transportation Diagram. The intent of this designation is to preserve the existing character of the neighborhood and limit new development to infill projects which conforms to the prevailing existing neighborhood

character defined by density, lot size and shape, massing and neighborhood form and pattern. The surrounding neighborhood is developed with a mix of single-story duplexes and single-family houses. The proposed single-story addition does not increase the project's number of units and does not change the street façade because the addition is located at the rear of the existing building and the addition does not change the height of the existing building.

4. **Zoning Conformance.** The proposed project site is located in the R-2 Two-Family Residence Zoning District.
 - a. **Use.** A duplex is a permitted use in the R-2 Two-Family zoning district per Table 20-50 in Section 20.30.100 of the San José Municipal Code.
 - b. **Height.** The height of the existing duplex is approximately 16 feet. The project does not change the building height.
 - c. **Setbacks.** Per Table 20-60 of Zoning Code Section 20.30.200, the required rear setback is minimum 25 feet and the side setback is minimum 5 feet. The proposed rear addition has a setback of 25 feet to the rear property line and a side setback of 5.5 feet. Project complies.
 - d. **Parking:** The duplex requires two parking spaces for each unit including two or three bedrooms. The existing duplex includes a two-car garage so one parking space is provided for each unit. The duplex was built in 1962 and conforms with the 1961 Zoning Code which requires one parking space for each dwelling unit for two-family residential building. Per Zoning Code Section 20.90.210, no structure constructed, or use instituted, prior to November 10, 1965 shall be required to meet the off-street parking requirements of the Zoning Code unless there is a substantial change in the structure or in the use of the structure or land. Because the project does not change the use of the structure and the change of the structure is not substantial, the project is exempt from the off-street parking requirement.
5. **Design Guidelines Consistency.** The project consists of an approximately one-story, 351 square foot addition to the rear of an existing one-story duplex. There would be no change in height to the existing building. The roof style, materials and colors used would match the existing duplex. Private open space of at least 300 square feet in size should be provided for each two-bedroom unit. For units with more than two bedrooms, the private open space should be increased by 100 square feet for each additional bedroom. The project remains approximately 881 square feet of private open space in the rear yard for the two-bedroom unit and approximately 468 square feet of private open space for the three-bedroom unit. Therefore, the project is consistent with the Residential Design Guidelines.
6. **Site Development Permit Findings.** Section 20.100.630 of the San Jose Municipal Code establishes required findings for issuance of a Site Development Permit.
 - a. The Site Development Permit, as approved, is consistent with and will further the policies of the General Plan and applicable specific plans and area development policies.
 - i. Land Use Policy LU-11.6: For new infill development, match the typical lot size and building form of any adjacent development, with particular emphasis given on maintaining consistency with other development that fronts onto a public street to be shared by the proposed new project. As an exception, for parcels already developed with more than one dwelling unit, new development may include up to the same number of dwelling units as the existing condition. The form of such new

development should be compatible with and to the degree feasible, consistent with the form of the surrounding neighborhood pattern.

Analysis: The proposed project is consistent with the General Plan as analyzed above and would be consistent with the existing neighborhood character. The proposed addition would not change the number of units on-site. Furthermore, the proposed addition would not change the street façade and would retain the existing character of the surrounding neighborhood.

- b. The Site Development Permit, as approved, conforms with the Zoning Code and all other provisions of the San José Municipal Code applicable to the project.

Analysis: As previously stated above, the proposed project is permitted in the Two-Family Residence zoning district, meets the setback and height requirements. The project is exempt from the current off-street parking requirement because the structure was built in 1962.

- c. The Site Development Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency.

Analysis: The project site is not subject to any specific plan or area development policies. An on-site sign describing the project has been installed since August 26, 2021 and notice for the public hearing was mailed to property owners and tenants within a radius of 500 feet of the project site, which is consistent with the Public Outreach City Council Policy.

- d. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

Analysis: As described above, the project proposes one-story rear addition to the existing duplex. The rear addition would not change the building height and would not change the street façade. The design of the addition would apply the same pitch roofs and match the color and material of the existing duplex. Hence the proposed addition would be compatible and aesthetically harmonious with the architectural features of the existing duplex. Further, the proposed addition would comply to the development standards of the zoning ordinance. The project also provides sufficient private open space for each unit.

- e. The orientation, location, and elevation of the proposed buildings and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

Analysis: As described above, the proposed one-story addition to the existing duplex maintains the existing character of the neighborhood. The proposed rear addition does not change the street façade. The proposed addition matches the existing building style and applies the same color and materials. Therefore, the proposed project is compatible with and aesthetically harmonious with the adjacent single-story residential development.

- f. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: Under the provisions of 15301(e) for Existing Facilities of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project was

found by the Director of Planning to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Acts of 1970, as amended. The proposed project involves the construction of a 351-square foot addition to an existing duplex which is under 10,000 square feet and is, therefore, exempt from environmental review. The subject site is served by public services such as water, sewer, trash and is not in an environmentally sensitive area. Based on the Santa Clara Valley Habitat Agency, the subject site is in an Urban-Suburban land cover area. Additionally, the proposed project is consistent with the General Plan land use designation in that the duplex will remain a duplex and will provide a design still consistent with the neighborhood. The impacts relating to noise, vibrant, dust etc. would be temporary and related to construction. Construction hours would be limited to between the hours of 7 a.m. to 7 p.m. Monday through Friday.

- g. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

Analysis: The proposed addition would not require the removal of any trees. All existing trees, fences, and landscaping would remain and would be maintained to keep the appearance of the site in the neighborhood. The project site is served by all public private utilities and services.

- h. Traffic access, pedestrian access and parking are adequate.

Analysis: The subject property is served by Ross Avenue, a neighborhood street. The proposed addition would not increase the amount of traffic on the existing roads since the use would remain a two-family residence.

7. **Environmental Review.** The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: Under the provisions of 15301(e) for Existing Facilities of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project was found by the Director of Planning to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Acts of 1970, as amended. The proposed project involves the construction of a 351-square foot addition to an existing duplex which is under 10,000 square feet and is, therefore, exempt from environmental review. The subject site is served by public services such as water, sewer, trash and is not in an environmentally sensitive area. Based on the Santa Clara Valley Habitat Agency, the subject site is in an Urban-Suburban land cover area. Additionally, the proposed project is consistent with the General Plan land use designation in that the duplex will remain a duplex and will provide a design still consistent with the neighborhood. The impacts relating to noise, vibrant, dust etc. would be temporary and related to construction. Construction hours would be limited to between the hours of 7 a.m. to 7 p.m. Monday through Friday.

In accordance with the findings set forth above, a Site Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all

subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B) of Title 20 of the San José Municipal Code, should the permittee fail to file a timely and valid appeal of this Site Development Permit (collectively “Permit”) within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:
 - a. Acceptance of the Permit by the permittee; and
 - b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all of the terms, provisions, and conditions of this Permit or other approval and the provisions of Title 20 of the San José Municipal Code applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire four years from and after the date of issuance hereof by the Director, if within such time period, the proposed use of the site or the construction of buildings (if a Building Permit is required) has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director. However, the Director of Planning, Building and Code Enforcement may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20 of the San José Municipal Code. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this Permit and the permittee’s agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José - Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

5. **Conformance to Plans.** The development of the site shall conform to the approved Site Development Permit Amendment plans entitled, “2925 Ross Avenue, San Jose, CA95124” dated August 18, 2021 on file with the Department of Planning, Building and Code Enforcement, and to the San Jose Building Code with the exception of any subsequently approved changes.
6. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
7. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San Jose Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
8. **Colors and Materials.** All building colors and materials shall be those specified on the Approved Plan Set.
9. **Hours of Construction.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
10. **Construction Disturbance Coordinator.** Rules and regulation pertaining to all construction activities and limitations identified in this Permit, along with the name and telephone number of a Permittee-appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.
11. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, H21-024, shall be printed on all construction plans submitted to the Building Division.
 - b. *San Jose’s Natural Gas Infrastructure Prohibition and Reach Code Ordinances.* The City’s Natural Gas Infrastructure Prohibition and Reach Code Ordinances apply to this project and all requirements shall be met. For more information, please visit www.sjenvironment.org/reachcode.
 - c. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any Building Permit issuance, Building Permit plans shall conform to the approved Planning development permits and applicable conditions.
 - e. *Other.* Such other requirements as may be specified by the Chief Building Official.
12. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the project must comply with the 2019 California Fire Code.
13. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.

14. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
15. **Anti-Graffiti.** The Permittee shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
16. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
17. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
18. **Nuisance.** As required by Title 20 of the San Jose Municipal Code, construction on this site shall be conducted in a manner that does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
19. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
20. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
21. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the Permittee will be required to have satisfied all of the following Public Works conditions. The Permittee is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/devresources>.
 - a. **Minor Improvement Permit:** The public improvements conditioned as part of this permit may require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. The Minor Improvement Permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
 - b. **Transportation:** this project does not require a detailed CEQA Transportation Analysis or a Local Transportation Analysis. The project is expected to result in less-than-significant transportation impacts and the projected traffic for the project was reviewed and found to be minimal.
 - c. **Grading/Geology:**
 - i. A grading permit may be required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.

- ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the latest California Plumbing Code as adopted under the City of San Jose Municipal Code Section 24.04.100 or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
 - iii. A soils report may be submitted to and accepted by the City prior to the issuance of a grading permit. This report should include, but is not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations.
 - d. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design and source controls measures to minimize stormwater pollutant discharges.
 - e. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
 - f. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
 - g. **Street Improvements:** The Permittee shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
22. **Revocation, Suspension, Modification.** This Site Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San Jose Municipal Code it finds: \
- a. A violation of any conditions of the Site Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

APPROVED and issued on this **20th day of October, 2021.**

Chris Burton, Director
Planning, Building, and Code Enforcement

Deputy